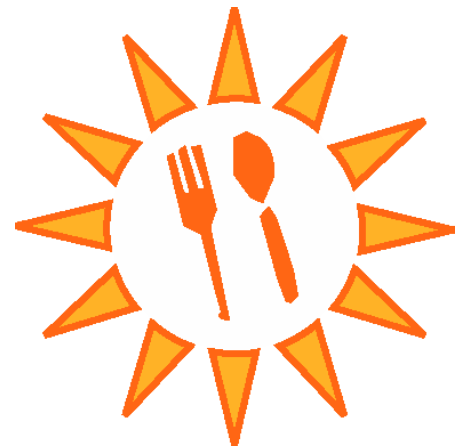


Missouri Department of Health and Senior Services

Summer Food Service Program

2003 Vended Sponsor's Guide



**Bureau of Community Food and Nutrition Assistance
P.O. Box 570
Jefferson City, MO 65102
888-435-1464
FAX: 573-526-3679**

For your reading ease, changes from last year's edition are highlighted.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). **"USDA is an equal opportunity provider and employer."**

Revised December 2002

VENDED SPONSOR’S GUIDE

CONTENTS

FOOD SERVICE MANAGEMENT COMPANIES

Selecting a Company	3
Procurement.....	3
Bid Specifications	7
Awarding the Contract.....	10
Administering the Contract	12
Questions and Answers.....	19

Food Service Management Companies

In this booklet, you will find information on:

- soliciting food services from local schools;
- selecting a company;
- invitation for bid and contract;
- competitive bid waivers and standard competitive bid procedures;
- bid specifications; and
- how to award and administer a contract for food service.

What is a Food Service Management Company? (7 CFR 225.2 definitions)

The term "food service management company" includes any organization (including commercial for-profit companies, schools, or private nonprofit organizations) that provides unitized meals under a contract with a program sponsor.

“What a Food Service Management Company Can’t Do” 7 CFR 225.15(a)(3)

Sponsors may not contract out management responsibilities of the Program, including but not limited to the following tasks:

- Meal ordering
- Assuming official recordkeeping responsibilities, including meal count information to substantiate claims
- Submitting claims
- Training and monitoring administrative and site staff
- Announcing availability of meals to the news media
- Determining income eligibility and maintaining individual income eligibility statements

Sponsors should check with the State agency before allowing a food service management company to undertake any other tasks that may be considered management functions or any tasks that are related to the bulleted items listed above.

Contracting with a Food Service Management Company (7 CFR 225.2 definitions, 225.6(h), and 225.15(g))

There are several factors that can influence a sponsor's decision to contract for meals with a food service management company. These factors may include the sponsor's lack of food preparation facilities or personnel, a site that is unsuited for meal preparation, or a large number of sites spread over a wide geographical area.

Sponsors that decide to contract with a food service management company to obtain meals are called "vended sponsors" and must meet various program requirements and follow certain procedures. Food service management companies that enter into a contract with a sponsor to prepare and deliver meals must provide meals that comply with program regulations and their contract with the sponsor. Therefore, both sponsors and food service management companies should be familiar with the information in this section. A successful vended operation depends on both parties fully understanding their mutual responsibilities in the program.



Soliciting Local Schools (7 CFR 225.15(b)(1))

Federal regulations strongly encourage sponsors to first consider their local school food authority as a source for obtaining meal service. Using the facilities of local public or private schools to prepare or obtain meals offers the sponsor several advantages. These schools often prepare large numbers of meals during the school year and already have the facilities and the staff to prepare meals for the SFSP. In addition, many schools are accustomed to preparing meals that meet USDA requirements if they participate in other Child Nutrition Programs. Finally, the contractual arrangement needed to obtain the service of a school food authority, a written agreement, is simpler to execute than the formal competitive procurement process that is required to use a commercial company.

When assessing a school's ability to provide meal service, sponsors must consider whether or not an adequate delivery service to sites can be established and whether the meals prepared by the school are comparable in price and quality to those available from commercial vendors. Furthermore, if the school itself obtains its meals from a food service management company, the sponsor must not enter into an agreement for meal service; rather, the competitive bid procedures described below must be utilized. Sponsors that can use local school food service facilities must enter into a written agreement with the school, but are not required to utilize the competitive bid procedures described below. Attachment 9 in the Reference Section includes a sample agreement between the school and sponsor to furnish prepared meals.

Selecting a Company

If a written agreement with a local school is not possible or is not beneficial, sponsors may contract with a food service management company to prepare and deliver meals. No sponsor may, however, contract out the management responsibilities of the SFSP such as monitoring, staff training, enforcing corrective action, or preparing program applications and claims for reimbursement. Sponsors remain legally responsible for seeing that the food service operation meets all requirements specified in the agreement they sign with the State agency. It is also important to note that the contract is between the sponsoring organization and the food service management company only, and neither USDA nor the Missouri Department of Health and Senior Services have jurisdiction to enforce it with either party, or to resolve any disputes that may arise.

Procurement

All procurement of food, supplies, goods, and other services with program funds by sponsors must comply with procurement standards prescribed in USDA's Uniform Federal Assistance Regulations, 7 CFR Part 3016 for public sponsors and 7 CFR Part 3019 for private nonprofit sponsors. (Note: USDA issued a final rule (August 14, 2000) that establishes Part 3016 and Part 3019 as the appropriate USDA procurement regulations for USDA entitlement programs, including the SFSP and other Child Nutrition Programs.) The State agency will make these documents available to sponsors upon request, and can provide more detailed information about these minimum purchasing requirements. In addition to complying with the minimum Federal standards, sponsor purchases may have to meet other State, local, and/or State agency standards, as well as special procurement requirements which may be established by the State agency, with approval of FNS, to prevent fraud, waste, and program abuse.

Minority Business Enterprise (7 CFR 3016.36(e) and 3019.44(b))

All sponsors are encouraged to procure their food, supplies, goods and services from minority business enterprises. Sponsors may wish to divide their total procurement needs into smaller quantities to facilitate participation by minority business enterprises. They may also want to establish delivery schedules that will help minority business enterprises meet deadlines. Sponsors can use the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the Department of Commerce.

Invitation for Bid and Contract (7 CFR 225.6(h)(2))

State agencies may require all sponsors under their jurisdiction to use a standard contract for meals provided by a food service management company. These standard contracts may vary according to different State and local requirements. This document can serve a dual purpose. It may contain the specific information a bidder needs to submit (The Invitation for Bid) and, upon acceptance of the bid and execution, it becomes the contract.

Formal Competitive Bid Waivers (7 CFR 225.15(g)(4))

In addition to the noncompetitive solicitation of local schools described above, there are two other circumstances that warrant waivers from formal competitive bid procedures. First, a public sponsor, including a school or university, that has an existing year-round contract with a food service management company to prepare meals not exceeding either the lower of the State or local threshold, or \$100,000, does not have to comply with competitive bid procedures. Second, any private nonprofit sponsor that has total contracts with food service management companies not exceeding the lower of the

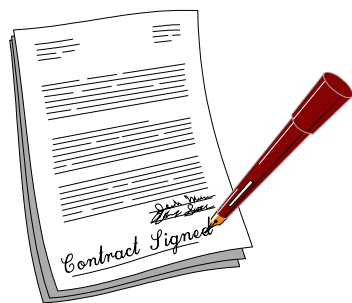
organization's threshold or \$100,000 is not required to comply with the competitive bid procedures.

These exceptions do not relieve the sponsor of the responsibility to ensure that applicable competitive procurement procedures are followed in contracting with any food service management company. All sponsors must ensure that they meet the requirements of the SFSP regulations. The State agency is responsible for ensuring that contracting and bidding procedures meet USDA requirements and will provide technical assistance to sponsors to help them meet these requirements.

Formal Competitive Sealed Bid Procedures (7 CFR 225.15(g)(4)(i)-(xii))

Formal competitive sealed bid procedures include five steps:

1. Preparing an Invitation for Bid (IFB) package.
2. Publicly announcing all IFBs not less than 14 days before bids are opened. Announcements must include the time and place of the bid opening.
3. Notifying the State agency at least 14 days before the bid opening. The notification must include the time and place of the opening.
4. Publicly opening all bids.
5. Submitting to the State agency copies of all contracts, a certificate of independent price determination, and copies of all bids received, as well as the sponsor's reason for selecting the chosen food service management company. (In some cases these documents must be submitted to the State agency **prior** to contract award.)



Careful preparation of the IFB is the most important step in the competitive bid process. Sponsors must supply the IFB to all companies responding to the public announcement.

The sponsor's IFB must include:

- a cycle menu approved by the State agency;
- food specifications and meal quality standards;
- a statement requiring compliance with SFSP regulations;

- nonfood items essential for conducting the food service;
- special meal requirements to meet ethnic or religious needs or dietary modifications for participants with special physical or medical needs, only if these are necessary to meet the needs of the participants to be served; and
- the location of the sponsor's sites and the estimated range of meals required.

The sponsor's IFB must **not**:

- specify a minimum price;
- provide for loans or any other monetary benefit, term, or condition to be made to sponsors by food service management companies; nor
- include nonfood items that are not essential to the conduct of food service.

Bid Bond (7 CFR 225.15(g)(5))

If food service management companies submit a bid over \$100,000, they must submit a bid bond in an amount between 5 percent and 10 percent of the value of the contract for which the bid is made, as determined by the sponsor and specified in the IFB. Food service management companies are prohibited from posing any alternative forms of bid bonds. Cash, certified checks, letters of credit, and escrow accounts, are not acceptable substitutes for bid bonds. The bond must be from one of the companies listed in the most recent issue of the U.S. Department of Treasury Circular 570, which is available from the Government Printing Office for a small fee. Sponsors may obtain a copy by calling (202) 512-1800, or by downloading at: <http://www.fms.treas.gov/c570/index.html>.

It is important that the food service management company respond to the IFB accurately and completely. Food service management companies which attempt to modify any provision of the IFB, or which otherwise fail to comply with all IFB requirements, will be considered "non-responsive" and ineligible for contract award. A more detailed discussion of bid specifications follows.

Bid Specifications

Sponsor Responsibilities (7 CFR 225.6(h)(2))

The sponsor must include the following information in the IFB so that bidders will know the exact terms of the bid.

- **Site Information (7 CFR 225.6(h)(2)(iii))**-- The sponsor must include a list of proposed site names, addresses, delivery locations, times of meal service and days of operation. With this information, a bidder can estimate the cost of delivery and the feasibility of meeting the sponsor's requirements. The sponsor should specify in the IFB that single deliveries for multiple meals (e.g., breakfast and lunch) are allowed only at those sites that are equipped with adequate storage and refrigeration facilities.
- **Cycle Menu (7 CFR 225.15(4)(v) and (vii))**-- The sponsor must also attach a cycle menu that lists the types and amounts of food in each meal. Program regulations specify minimum meal pattern requirements, but sponsors may improve upon these minimums to increase the variety and appeal of menus. Sponsors may request approval from the State agency for variations from the meal requirements only when necessary to meet ethnic, religious, economic, or nutritional needs.
- **Meal Requirements (7 CFR 225.15(4)(vi) and 225.7(c))**-- As part of the IFB, the sponsor must provide the food service management company with a copy of the meal requirements outlined in Section 225.16 of the SFSP regulations. The sponsor must also provide a copy of the minimum food specifications and model meal quality standards required by Section 225.7(c) of the SFSP regulations. (The State agency can supply copies of the regulations). The food service management company must deliver meals that meet these meal requirements and minimum food specifications and model meal quality standards.

Reimbursable Meals (7 CFR 225.6(h)(2)(ix) and 225.15(g)(4)(ix))

Under the provisions of the contract between the sponsor and the food service management company, the sponsor is required to pay only for the delivered meals that meet these requirements and should not pay for ineligible meals. Similarly, the sponsor will receive payments from the State agency only for meals that meet these requirements.

An effective quality control system is essential for verifying that meal components meet the minimum quantity requirements. During food preparation, the food service management company should regularly inspect and measure items to ascertain correct sizes and weights. Setting production equipment for the desired specifications is no substitute for a quality control system, because equipment settings may become distorted during operation. State agencies and sponsors are responsible for sampling meals and disallowing payment for meals that fail to meet minimum standards. The entire meal must be disallowed for reimbursement if any component does not meet minimum standards.

- **Unitized Meals (7 CFR 225.6(h)(3))**-- Sponsors must ensure that food service management companies provide "unitized" meals with or without milk or juice. This means that meals must be individually portioned, packaged, delivered, and served as a unit. The milk or juice may be packaged and provided separately, but must be served with the meal unit. Other variations of unitized meals can be approved by the State agency.
- **Commodities (7 CFR 225.9(b))**-- Sponsors of vended programs can only receive commodities if the vendor is a school or school district, or if the sponsor is a school food authority that competitively procures its SFSP meals from the same food service management company that competitively provided its most recent NSLP meals.
- **Meal Range Adjustments (7 CFR 225.6(h)(2)(xi))**-- Actual participation under a given sponsorship frequently varies from the estimate specified in the IFB. The food service management company bases a bid on the specifications and expects to be serving close to the number of meals listed in the estimate. A sizeable discrepancy between estimated and actual participation can increase or decrease the food service management company's unit production cost. Therefore, the sponsor must carefully estimate the number of meals it will need each day. Sponsors should also consider including a provision that will decrease the per meal price if the number of meals served exceeds expectations. Sponsors may increase or decrease the number of meals specified in the IFB only after notifying the food service management company.

Sponsors should consider specifying in the IFB a time period during which changes in a site's meal orders may be made to the vendor. A reasonable time frame for notifying the vendor may be within 24 to 36 hours of the change.

Increases in maximum meal service levels at sites receiving vended meals must be approved by the State agency.

- **Special Accounts (7 CFR 225.6(f))**-- The State agency may require sponsors to set up special accounts at financial institutions. If such accounts are established, the sponsor must deposit any payments received from the State agency for operating costs in the special account. Any checks drawn on this account must be authorized by both the food service management company and the sponsor. This is to help ensure that the company receives payment for the eligible meals it provides to the sponsor's program.

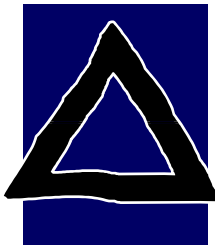
Food Service Management Company Requirements

There are several specific requirements food service management companies should be aware of before submitting a bid. These requirements are:

- **Health Certification and Inspection (7 CFR 225.6(h)(2)(v))**-- A food service management company must have State or local health certification for the facility(ies) used to prepare meals for the SFSP. The company must ensure that health and sanitation requirements are met at all times. In addition, the company must ask local health authorities or independent agencies to periodically inspect the meals they serve to determine bacteria levels. These levels must conform to the standards set by local health authorities. The company must submit the results of the inspections promptly to the sponsor and the State agency.
- **State Agency Inspections (7 CFR 225.7(d)(6) and (e))**
Food service management companies should also be aware that the State agency must inspect the food service management company's facilities as part of the sponsor review. In addition, the State agency may conduct inspections of food preparation facilities and food service sites and perform meal quality tests. This inspection is independent of the one the food service management company provides.
- **Records (7 CFR 225.6(h)(2)(vii))**-- Food service management companies must maintain records (supported by invoices, receipts, or other evidence) that the sponsor needs to meet program responsibilities. Companies must report to the sponsor at the end of each month, at a minimum. The food service management company must keep the books and records concerning the sponsor's food service operations for 3 years, or longer if required by the State agency, from the date of receipt of final payment under the contract. Representatives of the State agency, USDA, and the United

States General Accounting Office may examine or audit these records at any reasonable time and place. Records must be retained longer if there is an unresolved audit or investigation.

- **Subcontracts (7 CFR 225.6(h)(2)(ii))**-- Food service management companies may not subcontract with another company for the total meal (with or without milk) or for assembling of the meal. Subcontracting is prohibited because it inflates costs and lessens the sponsor's control over the quality and supply of the meals.
- **Contract Responsibility (7 CFR 225.6(h)(2)(ix))**-- It is important for the prospective food service management company to realize that the contract is a private contract between the food service management company and the sponsor. Neither USDA nor the State agency has any jurisdiction in the payments made to the food service management company. Before contracting to provide meals for the program, the food service management company needs to assess the sponsor's capability to meet the terms of the contract and the sponsor's capability to pay them for all meals that are properly delivered. If applicable, the company should become familiar with the sponsor's past performance in this or other federally funded programs.



Awarding the Contract

Sponsors should award the contract to the responsive and responsible bidder whose per meal bid was lowest in price. "Responsive" bidders are those whose bids conform to all of the terms, conditions, and requirements of the IFB. Sponsors are encouraged to use the services of minority-owned companies and should consult local and State authorities regarding the applicability of preference and set-aside provisions. Only statutory or court decreed preferences and set-asides that are not excessive may be used.

The sponsor should award the contract at least 2 weeks before program operations will begin to allow time for both the food service management company and the sponsor to prepare. The sponsor must give to the State agency copies of all bids the sponsor received and the reason it chose that particular food service management company.

State Agency Approval (7 CFR 225.6(h)(6))

All bids totaling \$100,000 or more must be submitted to the State agency for approval before the sponsor can accept a bid. In addition, any bids (regardless of dollar amount) that exceed the lowest bid must be submitted to the State agency for approval before acceptance, with an explanation of why that particular bid was chosen. The IFB that the sponsor accepts will become the contract for program operations between the sponsor and the food service

management company. The State agency will keep copies of all contracts between sponsors and food service management companies.

Performance Bond (7 CFR 225.15(g)(6))

When a food service management company and a sponsor enter into one or more contracts totaling over \$100,000, the company must obtain a performance bond from a surety company listed in the current U.S. Department of Treasury Circular 570, which is available from the Government Printing Office for a small fee. Sponsors may obtain a copy by calling (202) 512-1800 or downloaded at: <http://www.fms.treas.gov/c570/index.html>.

The amount of the bond must be no less than 10 percent nor more than 25 percent of the value of the contract, as determined by the State agency and specified in the IFB. Food service management companies are prohibited from posing any alternative forms of performance bonds. Cash, certified checks, letters of credit, and escrow accounts, are not acceptable substitutes for performance bonds. The food service management company must furnish a copy of the bond to the sponsor within 10 days of the contract's award.

Award Conference



After awarding the contract, but before executing the contract, all sponsor and food service management company representatives should meet to discuss their mutual and individual responsibilities in the SFSP. In this meeting, which is called the award conference, the representatives should review the IFB's required procedures for adjusting meal deliveries, cycle menus, food quality specifications, and meal packaging, as well as sanitation requirements.

The food service management company must also be familiar with all State and local health requirements, particularly those concerning food preparation and meal delivery. Most vended meals are packaged to prevent contamination. Thus, the greatest danger usually results when meals are held too long or are stored under improper temperature controls. Sponsors should also inform the food service management company of the function of monitors, reviews, and statistical monitoring, if applicable, in the operation of SFSP.

Administering the Contract

Food Service Sites

Sponsors should provide the food service management company with a list of approved food service sites, along with the limit on the number of meals that may be claimed for reimbursement for each site. It is

likely that some approved sites, for one reason or another, may have been canceled or dropped from participation before food service operations begin. A new list should be provided to the food service management company well before it is to start food service operations and at any other time during the program when sites are added or deleted. The sponsor should notify the company within the time limits mutually agreed upon in the contract if any site on its delivery schedule is going to be dropped or canceled.

Approved Meal Levels

During the application approval process, the State agency will approve sponsors that purchase meals from a food service management company to serve a maximum number of meals at each meal service for each site. The approved level represents the maximum number of meals sponsors can serve and claim for reimbursement at each meal service at their vended sites. The State agency may reduce the approved level at any time if it determines that a site's attendance is below its approved level. If a sponsor finds that the approved level is too low, the sponsor may seek an adjustment by requesting the State agency to conduct a site review; or the sponsor may document in writing (to the State agency) that attendance at a site exceeds the approved level.

Sponsors must plan for and adjust meal orders with the objective of serving only one meal to each participant at each meal service. A vended sponsor must inform its food service management company of:

- the approved level for each meal service at each site where the food service management company will deliver meals; and
- any adjustments in the approved level for its sites.

Such sponsors must advise the food service management company that the approved level for each site is the maximum number of meals that can be served at that site. This does not mean that these sites will serve that specific number of meals each day. The sponsor must clearly inform its food service management company that it will only be ordering the number of meals actually needed, based on participation trends and with the intent of serving only one meal to each participant at each meal service. During reviews, State agencies will disallow all served meals that exceed the approved level for each site.

Adjusting Meal Deliveries

One of the most important topics for discussion in the award conference is the adjustment of meal deliveries. As a sponsor, you should establish a system for collecting information on attendance changes from its sites, translating these changes into adjustments in the meal order, and communicating these adjustments to the food service management company. In turn, the food service management company should have an organized system for:

- receiving orders for delivery adjustments;
- documenting orders for delivery adjustments;
- adjusting production levels, if necessary;
- ensuring that delivery receipts are changed to reflect adjusted meal orders; and
- ensuring that adjusted meal orders for each site are correctly packaged and loaded for delivery.

The food service management company's key personnel must be aware of these responsibilities. For example, the food service management company's delivery personnel must understand that site supervisors cannot independently request more or fewer meals. These requests must be channeled through the sponsor. Only the sponsor may adjust meal deliveries. If the sponsor wants to order in excess of the approved meal level, State agency approval is required.

The attendance at sites will probably fluctuate during the summer, especially if there is no organized activity at a site other than the food service. You should try to anticipate certain fluctuations in attendance (such as local events that may interfere with site participation) and make arrangements in advance with the food service management company to adjust orders. For example, a consistent drop in attendance each Friday should be handled by reducing the number of meals delivered on Fridays.

Whenever possible, meals should be transferred from a site with too many meals to a site with a shortage, provided that the site's approved meal level is not exceeded. Your monitors should be aware of the procedures for handling extra meals so they can assist the site supervisors in making transfers or other arrangements.

During the summer, sites may cease food service operations on either a temporary or permanent basis. Also, new sites may be authorized to participate in the SFSP. Site deletions and additions may necessitate

changes in delivery routes and production levels, and will require the food service management company's cooperation. You are responsible for making sure the food service management company is informed of any such changes.

Planning Delivery Routes (7 CFR 225.16(c)(5))

The food service management company must carefully plan delivery routes and schedules and should review them with the sponsor. Sites without adequate facilities for holding meals within the temperature ranges established by State or local health ordinances must receive all meals not more than 1 hour prior to the beginning of the meal service. Delivery personnel for food service management companies should become familiar with their routes before the SFSP starts to help avoid confusion. The food service management company or the sponsor should evaluate and restructure the routes if deliveries for some sites are consistently late. The food service management company is responsible for ensuring that sufficient equipment is available to handle such changes (for example, additional trucks, refrigeration, etc.). You must plan a system for serving meals when the weather is bad, or they must plan a system for canceling meal deliveries and service at sites lacking sheltered facilities. The food service management company should be notified of these contingency plans.

Communication

Good communication is essential for smooth program operations. Even with good management and good intentions, complaints about the food service can arise. Food service management companies and sponsors should establish a system for communicating and resolving complaints. Experience indicates that problems can be most efficiently resolved when both the sponsor and the food service management company designate officials to receive and respond to suggestions and complaints.

Reimbursement (7 CFR 225.6(h)(2)(ix))

The food service management company should understand that the sponsor must pay for meals delivered by the food service management company in accordance with the contract. State agencies and USDA are not parties to such contracts. Federal reimbursement to sponsors is based solely upon the number of complete meals that are properly served to eligible children or disabled adults. Therefore, if you do not meet your responsibilities (such as ensuring that meals are served as a unit), meals must be disallowed. Although you remain contractually liable for the number of meals delivered in accordance with the contract, the food service management company should make sure that

it is informed of any sponsor disallowances made by the State agency.

Administrative Reviews (7 CFR 225.7(d)(6) and (e))

During the course of the summer, the State agency will conduct administrative reviews of the sponsor's program operations. The reviews are designed to ensure that the sponsor's overall program is operating according to requirements. The results of these reviews may affect the amount of reimbursement a sponsor will receive and the payment to the food service management company. The food service management company should designate an official to be familiar with the total program, particularly with the sponsor's responsibilities. For example, in addition to reading the SFSP regulations, this guide and other aids for the sponsor, the food service management company's representatives may want to attend training sessions sponsors arranged for food service personnel.

Sponsor Disallowances (7 CFR 225.11(d) and (e))

Following is a list of violations by sponsors that will result in disallowances by the State Agency. If the State agency disallows meals for any of these reasons, the sponsor is still responsible for paying the food service management company.

- excess meals, which are a result of failure to plan and prepare, or order and adjust, meal orders with the objective of providing only one meal per participant at each meal service;
- allowing meals to be eaten off-site;
- failure to serve meals as a unit;
- claiming meals served to adults;
- serving meals outside the approved timeframes; and
- serving meals in excess of approved levels.

Food Service Management Company Disallowances (7 CFR 225.6(h)(2) and (3))

Violations that would cause disallowances in the food service management company's payment from the sponsor's reimbursement are:

- delivering meals that are not unitized;
- delivering meals that are wholly or partially spoiled;
- delivering meals outside the designated delivery times;
- delivering meals with components that are less than the required size or weight;
- delivering meals that are missing components; and

- changing menus or substituting components without the sponsor's prior approval.

Default of Contract

As a sponsor, you may terminate the contract if the food service management company does not comply with its terms. You will notify the food service management company (and surety company, if a performance bond is in effect) of specific instances of unsatisfactory performance. If the food service management company does not immediately take corrective action, the sponsor may request the surety company to provide another food service management company, or the sponsor may negotiate another contract. You can negotiate this other contract on a competitive or non-competitive basis. The defaulting food service management company (or surety company if applicable) is liable for any difference in price between the original price and the new contract price.

Use of Small and Disadvantaged Businesses (7 CFR 225.17(d); 7 CFR 3016 and 7 CFR 3019)

You are encouraged, whenever possible, to procure services from minority business enterprises, small businesses, or women's-owned businesses on solicitation lists. If it is economically feasible, sponsors may wish to divide their total procurement requirements into smaller tasks or quantities to encourage participation by such entities.

A minority business is a business in which the management and daily operations are controlled by a member or members of a minority group. Such minority groups include Blacks or African Americans, Hispanics or Latinos, American Indians or Alaskan Natives, Asians, Native Hawaiian or other Pacific Islanders.

Assistance Provided By The Small Business Administration (7 CFR 225.17(d)(5))

The Small Business Administration (SBA) is an independent Federal agency established to provide assistance to all small businesses. The SBA provides prospective, new, and established members of the small business community with financial assistance, management training, and counseling. SBA's policy is to extend the fullest opportunity for minorities and disadvantaged people to participate in the small business sector. For more information about the SBA and its services, visit its' web site at www.sbaonline.sba.gov.

The SBA may be able to help minority-owned and disadvantaged food service management companies improve or develop their businesses in the following areas.

- **Financial Assistance** -- Food service management companies that need money and cannot borrow it on reasonable terms from conventional lenders may be able to get assistance from the SBA's loan programs. However, by law, the SBA may not make a loan if a business is able to obtain funds from a bank or other private source. The SBA may either participate with a bank or other lender in a loan, or it may guarantee up to 90 percent of a loan against loss. If the bank or other lender cannot provide funds using either of these methods, the law provides that the SBA can consider lending the entire amount as a direct government loan, if the funds are available. The SBA loans may be used to help food service management companies purchase equipment, facilities, and supplies.
- **Surety Bonds** -- Under the SFSP, food service management companies that submit bids over \$100,000 and that enter into a food service contract for over \$100,000 must obtain bid and performance bonds. The SBA makes the bonding process accessible to small and emerging contractors that find bonding unavailable to them. The SBA is authorized to guarantee a qualified surety up to 90 percent of losses incurred under bid payment bonds. The SBA can also guarantee performance bonds that are issued to contractors on contracts up to \$1 million. Food service management companies that anticipate problems in obtaining bid and performance bonds for the SFSP may be interested in contacting the SBA for assistance.
- **Management and Counseling Assistance** -- The SBA places special emphasis on improving the management ability of small business owners and managers. Accordingly, small business specialists may be able to assist minority-owned food service management companies with their management problems. They may also provide counseling on the problems or concerns food service management companies may have in meeting requirements for the SFSP.

Minority-owned food service management companies should contact SBA's nearest field office for prompt assistance.

Questions and Answers

1. Are there any advantages to obtaining meals from a school food authority?

You are encouraged to contact their local school food authority about the possibility of obtaining meals under a written agreement with a school. Using the facilities of local public or private schools to prepare or obtain meals offers sponsors several advantages. These schools often prepare large numbers of meals during the school year and already have the facilities and staff for such a service. Many schools are also accustomed to preparing meals that meet USDA requirements if they participate in other Child Nutrition Programs.

2. Can I contract out any of my management responsibilities?

No. Sponsors may not contract out the management responsibilities of the SFSP such as monitoring, staff training, enforcing corrective action, or preparing program applications and claims for reimbursement. Sponsors remain legally responsible for seeing that the food service operation meets all requirements specified in the agreement they sign with the State agency.

3. What type of information do I need to tell food service management companies when I invite them to bid on my contract?

You will need to include a list of proposed site names, addresses, delivery locations, times of meal service and days of operation. Also include a cycle menu that lists the types and amount of food in each meal, a copy of the meal pattern requirements and minimum food specifications and model meal quality standards. Sponsors will need to ensure that food service management companies provide “unitized” meals. Also, you need to carefully estimate the number of meals you will need each day because a sizable difference between estimated and actual participation can increase or decrease the food service management company’s unit production cost. In addition, clarify that commodities will only be received if the vendor is a school or school district, or if the sponsor is a school food authority that procures its meals from the same food service management company that currently provides National School Lunch Program meals.



4. Do commercial food service management companies that I contract out with need to be registered with the State agency?

It depends. Commercial food service management companies are no longer required by Federal law to register with the State agency. However, States may continue to require their own registration procedures. This policy gives State agencies flexibility in managing the SFSP. Some State agencies have found the registration process to be beneficial and prefer to continue to require it. (Note: Missouri does not require Food Service Management Companies to register.)

5. Are there certain requirements food service management companies need to fulfill?

Yes. Food service management companies must have State or local health certificates for the facilities they use to prepare meals for the SFSP and they must ask local health authorities or independent agencies to periodically inspect the meals they serve to determine bacteria levels. Further, companies must maintain records which are supported by invoices, receipts, or other evidence that you will need to meet program responsibilities and these records must be kept by the food service management company for at least 3 years from the date of receipt of final payment under the contract. In addition, food service management companies may not subcontract with another company for the total meal or for assembling the meal because this will inflate costs and lessens control of the quality and supply of the meals.

6. To whom do I award the contract?

Sponsors should award the contract to the responsive and responsible bidder whose per meal bid was lowest in price. Responsive bidders would be considered those whose bids conform to all of the terms, conditions, and requirements of the Invitation For Bid. Sponsors are encouraged to use the services of minority-owned companies and should consult local and State authorities regarding the applicability of preference and set-aside provisions. For bids totaling \$100,000 or more or to select a bid that is not the lowest bid you must first receive State agency approval before acceptance.